

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
NEWARK VICINAGE**

ANN MARIE PULEIO,

Plaintiff,

v.

AGUSTIN E. COTO, J & A TRUCKING
U.S.A., INC., AND ANA MERCEDES
ORTIZ

Defendants.

:
: SUPERIOR COURT OF NEW JERSEY-
: MIDDLESEX COUNTY
:
: NO.: MID-L-6140-08
:

: **NOTICE OF REMOVAL**
:
:
:
:

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ON NOTICE TO:

Edward P. Shamy, Jr., Esquire
2300 Route 27
North Brunswick, NJ 08902
Tel: 732-821-0400

PLEASE TAKE NOTICE that Defendants Agustin E. Coto and J & A Trucking U.S.A, Inc. ("defendants") hereby remove the above titled action from the Superior Court of New Jersey, Law Division, Middlesex County, New Jersey to the United States District Court for the District of New Jersey, Newark Vicinage, pursuant to 28 U.S.C. §§1332, 1441 and 1446. In support of this Notice of Removal defendants state as follows:

1. On or about July 25, 2008, plaintiff Ann Marie Puleio ("plaintiff") filed a civil action in the New Jersey Superior Court, Law Division, Middlesex County, New Jersey. A true and correct copy of the Complaint as received is attached hereto without incorporation herein as Exhibit "A."

2. The Complaint alleges that defendant Agustin E. Coto operated a tractor-trailer negligently and carelessly causing a motor vehicle accident that resulted in plaintiff's serious bodily injury. See Exhibit "A."

3. Due to the serious allegations contained in the Complaint, it is believed and therefore averred the amount in controversy is in excess of \$75,000, exclusive of interest and costs. See Exhibit "A."

4. Plaintiff is a resident of the State of New Jersey, residing at 810 North Oaks Boulevard, North Brunswick, New Jersey. See Exhibit "A."

5. Defendant Agustin E. Coto is a citizen and resident of the state of Florida, residing at 12343 S.W. 110 South Canal Street, Miami, Florida 33186.

6. Defendant J & A Trucking, U.S.A., Inc., is a Miami corporation with its principle place of business located at 15182 S.W. 171st Street, Miami, Florida 33187.

7. It is believed and therefore averred that defendant Ana Mercedes Ortiz is a citizen and resident of the state of Florida residing at 15182 S.W. 171st Street, Miami, Florida 33187.

8. Therefore, there is complete diversity between plaintiff and defendants and thus jurisdiction is appropriate.

9. It is believed that defendants Ana Mercedes Ortiz and Agustin E. Coto received a copy of the Complaint via First Class Mail on or after August 18, 2008 by virtue of a Civil Summons provided by plaintiff's counsel. See Exhibit "B."

10. However, defendant J & A Trucking U.S.A., Inc. has not been properly served a copy of the Complaint and proof of same has not been provided thus removal is being filed within thirty (30) days of the date upon which defendants first had notice of this action and is therefore timely filed pursuant to 28 U.S.C. §1446(b), as amended; See Murphy Bros., Inc. v.

Michetti Pipe Stringing, Inc., 526 U.S. 344 (1999).

11. Upon information and belief defendant Ana Mercedes Ortiz consents to the removal of this matter and consent for removal will be filed shortly.

12. Defendants, by and through their undersigned counsel, consent to the removal of this action from the State Court to the Federal Court.

13. The United States District Court for the District of New Jersey has original jurisdiction over this action pursuant to 28 USC §1332 because it arises between citizens of different states and the amount in controversy is in excess of \$75,000 exclusive of interest and costs.

14. The action is removable by defendants pursuant to 28 USC §1441(a) because the District Courts of the United States have original jurisdiction.

15. The undersigned counsel confirms that he has executed this Notice of Removal pursuant to Rule 11 of the Federal Rules of Civil Procedure on behalf of his clients.

16. As required by 28 USC §1446(d), defendants will promptly serve upon Plaintiffs' counsel and file with the Clerk of Court for the Superior Court of New Jersey, Law Division, Middlesex County, a true and correct copy of this Notice.

17. There are no other specifically identified defendants named in plaintiff's Complaint. See Exhibit "A."


18. By removing this action to this Court, defendants do not waive any defenses available to them in State or Federal Court.

WHEREFORE, defendants Augstin E. Coto and J & A Trucking U.S.A., Inc., pray that the within matter, now pending against them in the Superior Court of New Jersey, Law Division,

Middlesex County, be removed therefrom to the United States District Court for the District of New Jersey, Newark Vicinage.

Segal McCambridge Singer & Mahoney, Ltd.

By:



Walter H. Swayze, III, Esquire (PSwayze)
Theodore C. Flowers, Esquire (TFlowers)
Attorneys for Defendants, Augstin E. Coto
and J & A Trucking U.S.A., Inc.

Date: September 4, 2008.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
NEWARK VICINAGE

ANN MARIE PULEIO,

Plaintiff,

v.

AGUSTIN E. COTO, J & A TRUCKING
U.S.A., INC., AND ANA MERCEDES
ORTIZ

Defendants.

:
: SUPERIOR COURT OF NEW JERSEY-
: MIDDLESEX COUNTY

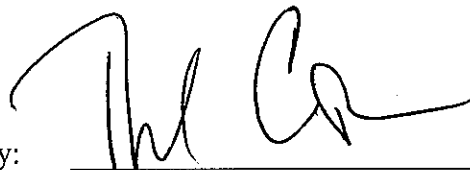
:
: NO.: MID-L-6140-08

:
: **CERTIFICATE OF SERVICE**
:
:
:
:
:
:

It is hereby certified that a true and correct copy of the foregoing Notice of Removal was served via first class mail upon the following counsel on the date indicated below:

Edward P. Shamy, Jr., Esquire
2300 Route 27
North Brunswick, NJ 08902
Tel: 732-821-0400
Attorney for Plaintiffs

By:



Walter H. Swayze, III, Esquire (PSwayze)
Theodore C. Flowers, Esquire (TFlowers)
Attorneys for Defendants, Augstin E. Coto
and J & A Trucking U.S.A., Inc.

Date: September 4, 2008

EXHIBIT

“A”

CIVIL CASE INFORMATION STATEMENT (CIS)

Use for Initial Law Division - Civil Part pleadings (not motions) under Rule 4:5-1. Pleadings will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or if attorney's signature is not affixed.

FOR USE BY CLERK'S OFFICE ONLY

PAYMENT TYPE CK CG CA

CHG/CK NO.

AMOUNT:

FILED & RECEIVED #12

2008 JUL 25 A 9:43

COUNTY OF VENUE: MIDDLESEX

MIDDLESEX COUNTY

DOCKET NUMBER (When available)

DOCUMENT TYPE COMPLAINT

JURY DEMAND ☒ YES ☐ NO

CAPTION AGUSTINE E. COTO, J & A TRUCKING USA, INC., AND ANA MERCEDES ORTIZ

IS THIS A PROFESSIONAL MALPRACTICE CASE? ☐ YES ☒ NO
IF YOU HAVE CHECKED "YES" SEE N.J.S.A. 2A:63A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT

RELATED CASES.

PENDING?

☐ YES ☒ NO

IF YES, LIST DOCKET NUMBERS

DO YOU ANTICIPATE ADDING ANY

PARTIES (arising out of same transaction or occurrence)?

☐ YES ☒ NO

NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY IF KNOWN

☐ NONE ☒ UNKNOWN

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

A. DO PARTIES HAVE A CURRENT, PAST OR RECURRENT

RELATIONSHIP

☐ YES ☒ NO

IF YES, IS THAT RELATIONSHIP

☐ EMPLOYER - EMPLOYEE☐ FAMILIAL☐ FRIEND/NEIGHBOR☐ BUSINESS☐ OTHER (explain)

B. DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY?

☐ YES ☒ NO

USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION:

DO YOU OR YOUR CLIENT HAVE ANY NEEDS UNDER THE AMERICANS WITH DISABILITIES ACT?

☐ YES ☒ NO

IF YES, PLEASE IDENTIFY:

WILL AN INTERPRETER BE NEEDED? ☐ YES ☒ NO IF YES, FOR WHAT LANGUAGE:

ATTORNEY SIGNATURE

IDE 2

**CIVIL CASE INFORMATION STATEMENT
(CIS)**

Use for initial pleadings (not motions) under Rule 4:5-1

CASE TYPES (Choose one and enter number of cases type in appropriate space on reverse side.)

SMO-Jax Received Tax on 8/20/2008 4:29:14 PM Eastern Daylight Time from

SMC-Jax Received fax on 8/20/2008 4:29:14 PM [Eastern Daylight Time] from

EDWARD P. SHAMY, JR., ESQ.
2300 ROUTE 27
NORTH BRUNSWICK, NEW JERSEY 08902
(732) 821-0400
Attorney for the Plaintiff

ANN MARIE PULEIO
Plaintiff,

vs.

AGUSTINE E. COTO, J & A TRUCKING
U.S.A., INC., AND ANA MERCEDES
ORTIZ,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY

DOCKET NO: MID-L-6140-08

CIVIL ACTION

SUMMONS

From the State of New Jersey, To the Defendant(s) Named Above: Ana Mercedes Ortiz, 15182 SW 171st, Miami, Florida 33187

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, CN 971, Trenton, NJ 08625. A filing fee payable to the Clerk of the Superior Court and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$135.00 for Law Division and \$110.00 for Chancery Division and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgement against you for the relief plaintiff demands, plus interest and costs of suit. If judgement is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgement.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

Date: August 1, 2008

Christina Higgins
Christina Higgins, Acting
Clerk of the Superior Court

Name of defendant to be served: Ana Mercedes Ortiz, 15182 SW 171st St., Miami, Florida 33187

SMC-Jax Received fax on 8/20/2008 4:29:14 PM Eastern Daylight Time from

ATLANTIC COUNTY:
Deputy Clerk of the Superior Court
Civil Division, Court Room
1201 Beachwood Blvd., First Floor
Atlantic City, NJ 08401
LAWYER REFERRAL
(609) 345-3444
LEGAL SERVICES
(609) 348-4200

BERGEN COUNTY:
Deputy Clerk of the Superior Court
237 Mt. of Records
Case Processing Section, Room 715
Justice Center, 10 Main Street
Hackensack, NJ 07601-7601
LAWYER REFERRAL
(201) 488-0044
LEGAL SERVICES
(201) 487-2166

BURLINGTON COUNTY:
Deputy Clerk of the Superior Court
Central Processing Office
Attn: Judicial Inlets
First Fl., Courthouse Facility North Broad Street, Box 129
45 Hancock Rd.
Mt. Holly, NJ 08060
LAWYER REFERRAL
(609) 261-4842
LEGAL SERVICES
(609) 261-1081

CAMDEN COUNTY:
Deputy Clerk of the Superior Court
Civil Processing Office
1st Fl., Hall of Records
101 S. Fifth St.
Camden, NJ 08103
LAWYER REFERRAL
(609) 964-4320
LEGAL SERVICES
(609) 964-2010

CAPE MAY COUNTY:
Deputy Clerk of the Superior Court
Central Processing Office
9 N. Main Street
Box DN-209
Cape May Court House, NJ 08210
LAWYER REFERRAL
(609) 483-0111
LEGAL SERVICES
(609) 485-3001

SALEM COUNTY:
Deputy Clerk of the Superior Court
32 Market St., P.O. Box 18
Salem, NJ 08705
LAWYER REFERRAL
(609) 678-3340
LEGAL SERVICES
(609) 451-0003

UNION COUNTY:
Deputy Clerk of the Superior Court
1st Fl., Court House
2 Broad Street
Elizabeth, NJ 07207-8073
LAWYER REFERRAL
(908) 351-4715
LEGAL SERVICES
(908) 354-4360

CUMBERLAND COUNTY:
Deputy Clerk of the Superior Court
Civil Case Management Office
Brent & Fayman Bldg., P.O. Box 515
Bridgeton, NJ 08302
LAWYER REFERRAL
(609) 592-6207
LEGAL SERVICES
(609) 451-0003

ESSEX COUNTY:
Deputy Clerk of the Superior Court
Administration Building
Luther King, Jr., Bldg.
Haverhill, New Jersey 07102
LAWYER REFERRAL
(973) 623-6207
LEGAL SERVICES
(973) 624-4500

GLoucester County:
Deputy Clerk of the Superior Court
Civil Case Management Office
Attn: Inlets
First Fl., Court House
Woodbury, NJ 08569
LAWYER REFERRAL
(609) 848-4589
LEGAL SERVICES
(609) 848-3366

HUDSON COUNTY:
Deputy Clerk of the Superior Court
Superior Court, Civil Records Dept.
Bridgman Court House-1st Floor
523 Newark Avenue
Jersey City, NJ 07306
LAWYER REFERRAL
(973) 735-2611
LEGAL SERVICES
(201) 732-6363

HUNTERDON COUNTY:
Deputy Clerk of the Superior Court
Civil Division
65 Park Avenue
Parsippany, NJ 08862
LAWYER REFERRAL
(609) 733-2811
LEGAL SERVICES
(609) 782-7979

SOMERSET COUNTY:
Deputy Clerk of the Superior Court
Civil Division Office
77 Hamilton St.
Somerville, NJ 08876
LAWYER REFERRAL
(908) 685-2332
LEGAL SERVICES
(908) 231-0840

WARREN COUNTY:
Deputy Clerk of the Superior Court
Civil Division Office
Court House
Bridgeton, NJ 08303-1500
LAWYER REFERRAL
(201) 267-5802
LEGAL SERVICES
(908) 475-2010

MERCER COUNTY:
Deputy Clerk of the Superior Court
Local Filing Office, Courthouse
175 South Broad St., P.O. Box 1068
Trenton, NJ 08630

LAWYER REFERRAL
(609) 585-5200
LEGAL SERVICES
(609) 595-5249

MIDDLESEX COUNTY:
Deputy Clerk of the Superior Court
1 Kennedy Sq., P.O. Box 2633
New Brunswick, NJ 08903-2633
LAWYER REFERRAL
(732) 828-0053
LEGAL SERVICES
(732) 244-7600

MONTMOUTH COUNTY:
Deputy Clerk of the Superior Court
21 Monument Park
P.O. Box 1262
Court House, Freehold
Freehold, NJ 07728-1262
LAWYER REFERRAL
(732) 831-5544
LEGAL SERVICES
(732) 856-0020

MORRIS COUNTY:
Deputy Clerk of the Superior Court
30 Schuyler Pl., P.O. Box 910
Morristown, NJ 07960-0910
LAWYER REFERRAL
(973) 287-5882
LEGAL SERVICES
(973) 285-6911

OCEAN COUNTY:
Deputy Clerk of the Superior Court
Court House, Room 119
118 Washington Street
Toms River, NJ 08754
LAWYER REFERRAL
(732) 240-3456
LEGAL SERVICES
(732) 341-2727

PASSAIC COUNTY:
Deputy Clerk of the Superior Court
Civil Division
Court House
Paterson, NJ 07503
LAWYER REFERRAL
(973) 278-3223
LEGAL SERVICES
(973) 345-7171

SUSSEX COUNTY:
Deputy Clerk of the Superior Court
43-47 High Street
Newton, NJ 07860
LAWYER REFERRAL
(201) 287-5182
LEGAL SERVICES
(201) 283-7400

EDWARD P. SHAMY, JR., ESQ.
2306 ROUTE 27
NORTH BRUNSWICK, NEW JERSEY 08902
(732) 821-0400
Attorney for Plaintiff(s)

FILED & RECEIVED #2

2008 JUL 25 A 9:43

CIVIL OFFICE
MIDDLESEX COUNTY

ANN MARIE PULEIO,

Plaintiff,

vs.

AGUSTIN E. COTO, J & A TRUCKING
U.S.A., INC., AND ANA MERCEDES
ORTIZ,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY

DOCKET NO. MID-L-6140-08

CIVIL ACTION

COMPLAINT AND JURY DEMAND

The plaintiff, Ann Marie Puleio, residing at 810 North Oaks Boulevard, in the Township of North Brunswick, County of Middlesex, State of New Jersey, complaining of the defendants says:

FIRST COUNT

1. On or about the 22nd day of April, 2007, the plaintiff, Ann Marie Puleio, was the operator of a motor vehicle which was traveling northbound on the New Jersey Turnpike at Mansfield Township, Burlington County and State of New Jersey.
2. At the time and place aforesaid, the defendants, J & A Trucking and Ana Mercedes Ortiz were the owners of a motor vehicle being operated by its agent, servant and/or employee, defendant, Agustin E. Coto, which motor vehicle which was traveling northbound on the New Jersey Turnpike, at Mansfield Township, Burlington County and State of New Jersey.
3. The defendants, Agustin E. Coto, J & A Trucking USA, Inc. and Ana Mercedes Ortiz, were negligent in their ownership and operation of the respective vehicle as a result of which defendant driver, Agustin E. Coto struck the vehicle of the plaintiff.

5. As a direct and proximate result of the negligence of the defendants herein, the plaintiff, Ann Marie Puleio, sustained severe personal injuries, has and will suffer pain, has and will incur medical expenses, and has and will be unable to engage in her usual activities, all to her damage, and has sustained bodily injury of such nature and degree to satisfy the threshold pre-requisites of N.J.S.A. 39:6A-8 et seq.

WHEREFORE, the plaintiff, Ann Marie Puleio, demands judgment against the defendants, for damages, interest, and costs of suit.

DESIGNATION OF TRIAL COUNSEL PURSUANT TO R.4:25-4

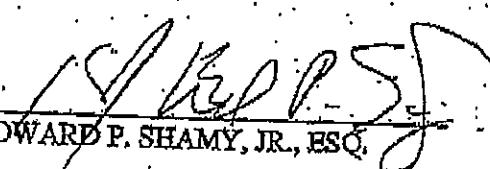
Pursuant to R.4:25-4, we do hereby designate Edward P. Shamy, Jr., Esq. as trial counsel in this matter.

DEMAND FOR TRIAL BY JURY

Please take notice that the plaintiff demands a trial by jury pursuant to R.4:35-1. Please take further notice that the provisions of the New Jersey Automobile Reparation Reform Act have been met.

CERTIFICATION PURSUANT TO R. 4:5-1

I hereby certify that the matter in controversy is not the subject of any other action pending in any other court or of a pending Arbitration proceeding, and that no other action or Arbitration proceeding is presently contemplated. I hereby further certify that there are no other parties that are presently known who should be joined in this action.


EDWARD P. SHAMY, JR., ESQ.

DATED: July 22, 2008

SMC-Jax Received fax on 8/20/2008 4:29:14 PM [Eastern Daylight Time] from

EXHIBIT

“B”



**New Jersey
Motor Vehicle Commission**

COPY

P.O. Box 007
Trenton, New Jersey 08646-007

STATE OF NEW JERSEY

Jon S. Corzine
Governor

Sharon A. Harrington
Chief Administrator

Date: August 18, 2008

File No: 213031

Ana Mercedes Ortiz
15182 S.W. 171st
Miami, FL. 33187

Re: MID-L-6140-08
Ann Marie Puleio
vs
Ana Mercedes Ortiz, J & A
Trucking USA Inc. & Agustin E.
Coto

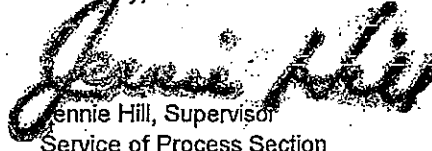
Dear Sir/Madam:

State Motor Vehicle law (N.J.S.A. 39:7-1 et seq.) makes the Director of Motor Vehicle Services the agent for service of process on non-residents who were involved in a motor vehicle accident or collision in New Jersey. As authorized by the Chief Administrator, I have enclosed copies of a summons and complaint with this letter.

The Division of Motor Vehicle Services will notify the initiator of the action that this material has reached you. Because you are now responsible for all further action on this matter, it is important that you respond as outlined on the summons so a judgement by default is not entered against you.

If this action began in the Superior Court, Law Division - Special Civil Part, you may contact the court clerk with related questions. Otherwise, you may direct inquires to the attorney for the plaintiff, who is identified on the summons and complaint.

Sincerely,


Jennie Hill, Supervisor
Service of Process Section

JH:mg
Enc:

c. EDWARD P. SHAMY JR., ESQUIRE
2300 ROUTE 27
NORTH BRUNSWICK, NEW JERSEY 08902

rc-35

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P.O. Box 007
Trenton, New Jersey 08646-007



**New Jersey
Motor Vehicle Commission**

STATE OF NEW JERSEY

Jon S. Corzine
Governor

Sharon A. Harrington
Chief Administrator

Date: August 18, 2008

File No: 213031

Agustin E. Coto
12343 S.W. 110 So. Canal St.
Miami, FL. 33186

Re: MID-L-6140-08
Ann Marie Puleio
vs
Agustin E. Coto, Ana Mercedes
Ortiz & J & A Trucking USA Inc.


Dear Sir/Madam:

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Sincerely,


Jennie Hill, Supervisor
Service of Process Section

JH:mg
Enc:

c. **EDWARD P. SHAMY JR., ESQUIRE**
2300 ROUTE 27
NORTH BRUNSWICK, NEW JERSEY 08902

rc-35